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COMMISSION ON HUMAN RIGHTS
Fifty-eighth session
Item 5 of the provisional agenda

THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION

Written statement* submitted by the Palestinian Centre for Human Rights (PCHR), a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[24 January 2002]

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*This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE. *200201102 7*

ENG

The Palestinian Centre for Human Rights (PCHR) and LAW – the Palestinian Society for the Protection of Human Rights and the Environment – condemn Israel's continued belligerent occupation of the Occupied Palestinian Territories (OPT) and its illegal settlements, which together constitute a basic denial of the right of the Palestinian people to self-determination. The internationally recognised right of the Palestinian people to self-determination includes the establishment of a viable and independent state on territories occupied by Israel in 1967. Yet under the Oslo accords, 82% of the OPT remains under direct Israeli military control. Moreover, Israeli settlement policy makes the establishment of a future state increasingly difficult and unlikely, undermining the likelihood that a two-state outcome to the conflict will be sustainable. Both the occupation and settlement policies have continued unabated throughout the Oslo framework negotiations and the al-Aqsa Intifada alike. Moreover, the occupation is and will continue to be the primary source of violence, terrorism, and instability in the region.

There are approximately 400,000 Israeli settlers in the OPT, including east Jerusalem, in violation of Article 49 of the Fourth Geneva Convention. The Israeli government has followed a policy of settlement construction and expansion, providing generous subsidies and benefits to encourage settlement, and issuing firearms to settlers. Although all settlements in the OPT, including east Jerusalem, are illegal under international humanitarian law, the Israeli government uses them to justify their continued military occupation of the West Bank and Gaza strip. Various methods of ethnic cleansing have been used to cleanse the West Bank (including East Jerusalem) and Gaza Strip of Palestinians and to confiscate more land and property to make way for settlements and increasing numbers of Jewish Israeli citizens in the OPT.1

Disruption of territorial contiguity and international isolation

Israeli settlements are scattered throughout the OPT and many of them are located in strategic areas on hilltops and between Palestinian communities. According to satellite data, there are 308 Jewish built-up areas in the OPT, excluding military sites.2 These areas cover 150.2 square kilometers, but are surrounded by larger amounts of empty confiscated lands reserved for future expansion. Settlements are linked to each other and to Israel by a series of "bypass roads" patrolled by the Israeli military and strictly off limits to Palestinians. In the West Bank alone, there are 340.8km of bypass roads, covering an area (with buffer zones on either side) of 51.5 square kilometers. Moreover, at least 25 new settlements were built in the West Bank alone between February and October 2001.3 Settlements, military bases, and "bypass roads" divide the West Bank into at least 64 Palestinian bantustans, while the Gaza strip has been separated into at least three segments. In addition, Israel retains control over all of the OPT's borders under the Oslo accords, thus isolating them from neighbouring Jordan and Egypt. Any final agreement which does not rectify this situation will undermine the viability of a future Palestinian state.

Jerusalem

Israel's unilateral annexation of east Jerusalem and a surrounding area of 70 square kilometers is illegal under international law. The Palestinian right to an independent state on territories occupied in 1967 includes the right to establishing a capital in east Jerusalem. Thus, illegal

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1 Please see PCHR and LAW's joint intervention on racism and racial discrimination, item 6.
2 GIS database, ARIJ 2000, www.arij.org.
3 MIFTAH factsheet on settlements, www.miftah.org.

Israeli policies intended to "Judaise" east Jerusalem and ethnically cleanse existing Christian and Muslim Palestinian communities take on an added gravity. Such practices include: building Israeli settlements and roads to cut off Palestinian neighbourhoods from the West Bank, withdrawing identity cards for Palestinian residents of the city, and demolishing Palestinian homes on the pretext that they were built without a permit, even though discriminatory housing regulations make obtaining such permits nearly impossible, as recognised by the Committee on Economic, Social, and Cultural Rights.4 On 8 July 2001, Israeli authorities demolished 17 homes in the Shu'fat refugee camp in east Jerusalem, 200m east of the "Pisgat Ze'ev" settlement, leaving more than 120 people homeless.

Expropriation of water

Regarding the sharing of water resources, Israel diverts water resources in the West Bank and Gaza strip for Israeli use. According to the Palestinian Hydrology Group, Palestinians in the OPT are allowed to use only 12.5% of the renewable water resources of the West Bank and Gaza strip, while the rest is diverted to Israel or used in illegal settlements in the OPT.5 Israelis thus consume 4 times as much water per capita as Palestinians in the OPT. Not only does this deprivation of water negatively affect Palestinians as individuals, but the diversion of water reserves, a vital communal resource, poses a major environmental, health, and economic challenge that would be a pressing concern for any future Palestinian state.

Restrictions on movement

Israel has dramatically tightened its closure of the borders of the OPT during the al-Aqsa Intifada, making travel to Israel, neighbouring countries, or between the West Bank and Gaza strip almost impossible. It has also imposed a severe siege around Palestinian villages, towns, and refugee camps, drastically limiting movement *within* the OPT. Movement restrictions have contributed to the decimation of the Palestinian economy, which contracted by 50% during the last quarter of 2000, leading to a sharp rise in unemployment and poverty rates6, and increased reliance upon humanitarian agencies.7 Siege and closure disrupt all aspects of social and economic life, including the functioning of Palestinian National Authority (PNA) institutions. The Palestinian Legislative Council (PLC) has been unable to meet, Palestinian police have been unable to carry out their duties in full, and the ministries and judiciary have virtually ceased to function. The economic damage caused by the siege and closure policy will take years, if not decades, to repair, and the institutions of the PNA have been further damaged by military attacks, including airstrikes, on civilian infrastructure. By crippling the Palestinian economy and restricting movement, Israel's siege and closure policy paralyze and undermine nearly all Palestinian institutions, whether in the business, health, education, civil society sectors, or the PNA itself.

Destruction of infrastructure

Israeli occupation forces have caused widespread destruction and damage to civilian infrastructure in the OPT, especially in PNA-controlled areas. Dozens of PNA police installations and prisons have been shelled, demolished, or bombarded. Indiscriminate Israeli shelling has damaged or destroyed a number of power relay stations, depriving communities of

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4 "Concluding observations of the Committee on Economic, Social, and Cultural Rights: Israel" (E/C.12/1/Add.27), 4 December 1998, para. 22

5 "Israeli aggression against Palestinian water sector during al-Aqsa Intifada," www.phg.org.

6 Economic reports by the Office of the United Nations Special Coordinator, www.unsco.org.

7 See report of LAW and other NGOs submitted to UN Special Rapporteur for Food and Water, 1 November 2000, available at www.lawsocietyorg.

electricity (the OPT depends exclusively on electricity from Israel). Key elements of the transportation sector have also come under attack. Israeli bulldozers and fighter aircraft attacked the Gaza international airport on 12 December 2001, destroying the radar tower and rendering the runway unusable. A later attack in January 2002 destroyed the runway beyond repair. The airport is a Palestinian civilian facility but is under Israeli military control. On 17 September 2001, Israeli forces attacked the Gaza seaport, where construction had already been stopped, destroying at least one building clearly marked with flags of EU donor countries. As part of its policy of besieging Palestinian communities, Israeli forces have dug trenches around towns and villages in the West Bank, physically cutting roads. Repairing the damage done to physical infrastructure of the OPT by the Israeli military will be both expensive and difficult, placing a major burden on a future Palestinian state and severely undermining its ability to carry out basic functions, such as maintaining air and sea links and facilitating internal movement.

PCHR and LAW call upon,

The government of Israel

- To immediately apply all provisions of the Fourth Geneva Convention in the OPT, *de jure* and *de facto*, and to comply with UN resolutions demanding a full withdrawal from Palestinian territories occupied in 1967.

- To publicly commit to full cooperation in efforts to establish a viable Palestinian state in accordance with international law and international humanitarian law, and devote the resources necessary to assist in undoing the obstacles to this goal established as part of the occupation.

- To immediately dismantle all settlements in the OPT, including those in east Jerusalem, and ensure the expeditious and orderly transfer of settlers back into Israel.

- To immediately end all financial benefits and other government incentives encouraging illegal settlement in the OPT.

- To end all movement restrictions within the OPT and allow normal traffic through international border crossings.

- To effectively investigate, prosecute, and punish those suspected of unlawfully killing Palestinians in the OPT, especially settlers, and, in accordance with Article 146 of the Fourth Geneva Convention, all officials found to have ordered willful killings.

- To accept the presence of an appropriate international protection mechanism for Palestinian civilians in the OPT and to extend full cooperation to it.

The international community, including the High Contracting Parties to the Fourth Geneva Convention,

- To take immediate steps to ensure Israel's *de jure* and *de facto* implementation of the Fourth Geneva Convention in the OPT and its recognition of the Palestinian right to self-determination, including the right to establish a viable and independent state on the territories occupied in 1967.

- To immediately deploy an independent international protection presence to protect

Palestinian civilians and prevent further grave breaches and other violations of the Convention and other international human rights standards in the OPT.

- To recognize and implement the obligations of the High Contracting Parties to the Fourth Geneva Convention under Article 146 to

    - enact legislation to provide effective penal sanctions for persons committing, or ordering to be committed, grave breaches of the Convention.

    - search for and bring to trial, in accordance with international standards, persons alleged to have committed, or have ordered to be committed, grave breaches of the Convention, in conformity with the universal jurisdiction over grave breaches recognised by the Convention.

- To establish a War Crimes Tribunal to prosecute those Israelis responsible for perpetrating war crimes in the OPT

- To immediately end all transfers of arms and military equipment to Israel, and to pressure other states to do so.

- To immediately implement all signed agreements and domestic legislation that are contingent upon Israel's compliance with international human rights standards, including suspension of the Euro-Israeli Association Agreement.

- To impose economic, oil, trade, diplomatic and other sanctions individually or collectively, in a graduated and cumulative manner (with the exception of the provision of medical aid, foodstuffs and other humanitarian goods and services).

- To restrict bilateral trade relations with Israel, especially regarding the import of products made in Israeli settlements in the OPT.

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COMMISSION ON HUMAN RIGHTS
Fifty-eighth session
Item 11 (a) of the provisional agenda

CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF: TORTURE AND DETENTION

Written statement* submitted by the Palestinian Centre for Human Rights (PCHR), a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[24 January 2002]

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*This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE. * 2 0 0 2 0 1 1 0 3 0 *

ENG

The Palestinian Centre for Human Rights (PCHR) and LAW, the Palestinian Society for the Protection of Human Rights and the Environment (LAW) note with grave concern the continuing prevalence of torture and ill treatment of Palestinian detainees in Israeli jails and detention centres, inside Israel and in the Occupied Palestinian Territories (OPTs). PCHR and LAW wish to provide the Commission on Human Rights with information regarding Israel's continued violation of its obligations under international human rights and humanitarian law, in particular the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Convention), to which Israel is a State party, to prevent torture and cruel, inhuman or degrading treatment or punishment (ill treatment), to investigate allegations of such treatment and to bring to justice those responsible for the perpetration of violations.

PCHR and LAW asserts that members of the Israeli Security Agency (formerly known as the General Security Services or GSS) and other Israeli security institutions continue to violate international legal standards on the prohibition of torture and other forms of ill treatment in their treatment or punishment of Palestinians in or from the OPTs. The use of administrative detention, in which Palestinians have been held without charge or trial, has continued and even increased in the last year. The use of incommunicado detention has also increased. The pattern of torture and ill treatment of Palestinians in Israeli detention facilities is endemic. Palestinians have continued to be subjected to interrogations methods which constitute torture or ill treatment. Members of the ISA and other institutions enjoy impunity for torture and ill treatment. Victims are routinely denied effective and adequate redress in accordance with international standards.

As the United Nations Committee Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Committee) stated in November 2001[1], Israel has yet to incorporate a prohibition on torture as defined under the Convention into domestic legislation. The Committee further reiterated the concerns of Palestinian, Israeli and international human rights organizations that Israel continues to violate international standards on the prohibition on torture and ill treatment, with particular regard to its use of physical and psychological pressure during interrogation, and administrative and incommunicado detention. The Committee also found that the policies of closure and house demolition may, in certain circumstances, constitute cruel, inhuman or degrading treatment or punishment in violation of Article 16 of the Convention.

Torture and Ill Treatment in Detention

There has been a serious increase in the number of Palestinian arrested by members of Israeli security institutions and consequently human rights organizations, including PCHR and LAW, have received increasing numbers of complaints of torture and ill treatment in detention, including of minors. According to PCHRs records more than 1500 Palestinians were arrested and detained by the Israeli occupation forces and other security services in 2001 and more than 3000 Palestinians are currently in detention in institutions inside Israel, including 244 under the age of 18[2]. Many prisoners have been, or continue to be, subjected to methods of interrogations which amount to torture or ill treatment, including, but not limited to, painful shackling; shabeh; sleep deprivation; forcing the detainee to squat for long periods; loud music or screaming noises; beatings, slapping and kicking; shaking; threats of physical and sexual

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1 Conclusions and Recommendations of the Committee Against Torture: Israel. 23/11/2001. CAT/C/XXVII/Concl.5.

2 Figures provided by the Ministry of Prisoners Affairs of the Palestinian Authority.

violence; insults. Other treatment inside detention centres has included exposure to extreme temperatures; prolonged or continuous exposure to artificial light; denial of timely and adequate medical care; tear gas, sound bombs; detention in inhuman and degrading conditions; denial of basic rights including freedom of expression and free worship. PCHR and LAW are particularly concerned about the treatment of Palestinian children upon arrest and during interrogation and detention. According to Defence for Children International, Palestine Section, approximately 650 Palestinian children were arrested by the Israeli authorities in 2001 and of those, approximately 95% were subjected to some form of torture and ill treatment, including psychological methods, upon arrest, during transportation to detention centres, interrogation or detention.

Incommunicado Detention

Palestinians have continued to be subjected to incommunicado detention in the last year. The denial of rights to legal counsel and family visits facilitates torture and other ill treatment. The Israeli Supreme Court has consistently refused requests for access to legal counsel submitted by PCHR, LAW and other human rights organizations and has also refused to examine the legal basis for permitting incommunicado detention. Throughout this Intifada, the Israeli authorities have imposed unacceptable conditions and restrictions on the ICRC family visitation programme, leading to regular suspensions.

Administrative detention

In November 2001, the Committee also noted Israel's continued use of administrative detention, and expressed again its concerns that the practice does not conform with article 16 of the Convention Against Torture. PCHR is increasingly concerned by the continued detention of Palestinians without charge or trial for long periods without recourse to even the most basic requirements of judicial procedure. Administrative detention orders are generally based on classified information to which the detainees lawyer has no access. They are issued by Israeli military commanders in the OPTs and can be renewed an indefinite number of times.

Transfer of Prisoners

The transfer of Palestinian prisoners to detention facilities inside Israel further facilitates the prevalence of incommunicado detention and thus the use of methods of interrogation which may amount to torture or ill treatment and is of itself a breach of international humanitarian law; the transfer of prisoners outside of occupied territory is a violation of Articles 49 and 76 of the *Geneva Convention Relative to the Protection of Civilian Persons in Time of War of August 12, 1949* (the Fourth Geneva Convention). Palestinians arrested by the Israeli occupation forces or other security institutions are usually initially detained at facilities within settlements or military posts in the OPTs. If the detainee is considered to have committed a more serious offence or requires further investigation, he is then transferred to a facility inside Israel. Often, prisoners are then moved to other prisons inside Israel, introducing greater psychological pressure and facilitating the use of collaborators. Furthermore, in light of the heightened closure policy imposed on the OPTs since the beginning of this Intifada, preventing movement of Palestinians between the OPTs and Israel and even within the OPTs, in transferring prisoners outside of the OPTs the Israeli security services are effectively ensuring that they are held in *de facto* incommunicado detention, without access to family and, in some cases even legal counsel. Family visits previously organized by the ICRC have been regularly suspended as mentioned above. PCHR has also received several complaints of ill treatment of relatives by Israeli officials in detention centres during visits. These complaints have focused on physical searches, particularly of women and children, conducted in a manner which

violates human dignity. PCHRs lawyers, like other lawyers from the OPTs, have been denied access to clients held in detention in Israel since 1996. PCHR has consequently been forced to instruct Israeli lawyers to act on its behalf in conducting client visits and representing clients in court. The prohibitive costs of Israeli legal fees creates serious financial burden on individuals, their families and on institutions like PCHR which provide legal aid.

Torture and Ill Treatment outside Interrogation

Increasingly since the beginning of this Intifada, there have been cases of Palestinians beaten or otherwise subjected to ill treatment immediately upon arrest. There have also been increasing reports of ill treatment of Palestinians at checkpoints by Israeli soldiers.

Impunity for Torturers

As PCHR, LAW and other human rights organizations have repeatedly stated, members of the ISA, the Israeli occupation forces and other security institutions have continued to enjoy impunity for acts of torture and ill treatment. In providing that initial investigations into complaints by detainees are conducted by a member of the ISA, Israel has failed to provide an effective complaints procedure for Palestinian prisoners. Those responsible for torture or ill treatment are rarely investigated fully, and PCHR is not aware that any member of the ISA, or of its former incarnation, the GSS, has been successfully prosecuted for an act of torture or ill treatment in response to any complaint submitted by, or on behalf of a Palestinian prisoner. Indeed, PCHR and LAW have submitted many complaints of torture and, or, ill treatment on behalf of Palestinian prisoners detained inside Israel. In the majority of cases no thorough and impartial investigation has been conducted, if an investigation is initiated at all. No complaint submitted by PCHR or LAW has resulted in a prosecution of a member of the Israeli Security Agency (ISA).

Failure to Compensate and Rehabilitate

Israel routinely violates its obligations to effectively investigate complaints of torture and ill treatment, prosecute those responsible in accordance with international standards, including with respect to appropriate punishments, and provide redress, including adequate compensation, for Palestinian victims of torture and ill treatment. PCHR has submitted a number of complaints to the Israeli High Court of Justice regarding the use, or feared use of methods of interrogation of Palestinian detainees which may constitute torture or ill treatment, including requests for investigations. PCHR does not consider that the majority of those prisoners from the OPTs who have been subjected to torture or ill treatment in detention in violation of Israel's obligations under international law have received effective and adequate compensation or redress, in accordance with international standards.

PCHR and LAW conclude that Israel continues to practice methods of interrogation and other policies which constitute torture or other forms of ill treatment as defined in international law and continues to violate its obligations to provide redress, including full and proper investigations, prosecutions in accordance with international standards, including with respect to appropriate punishment, and effective and adequate compensation.

PCHR and LAW therefore call upon:

The Government of Israel,

- To immediately implement the provisions of the Convention Against Torture and Other

Cruel, Inhuman or Degrading Treatment or Punishment to which they are a state party.

- To incorporate fully the provisions of the Convention Against Torture into domestic legislation, including a clear prohibition on torture and ill treatment as defined under the Convention.

- To fulfill its legal obligations under other international laws, including the Fourth Geneva Convention, to prohibit torture and ill treatment, to immediately halt the illegal transfer of prisoners outside of the OPTs.

- To end the culture of impunity which members of the Israeli Security Agency, the Israeli occupation forces and other security institutions have consistently enjoyed for acts of torture and ill treatment and to prosecute those responsible for the perpetration of torture and ill treatment.

- To provide effective means of adequate compensation for victims of torture and ill treatment.

- To revise military and civilian laws and policies to ensure that all detainees are ensured prompt access to lawyers and families in accordance with international standards, without discrimination.

- To cease the practices of administrative and incommunicado detention.

The UN Commission on Human Rights and the UN General Assembly,

- To monitor Israel's fulfillment of its obligations as a state party to the Convention Against Torture to prohibit and prevent torture and ill treatment and to fully investigate complaints of torture and ill treatment and to provide effective and adequate redress for victims of torture and ill treatment.

The High Contracting Parties to the Fourth Geneva Convention,

- To recognize their obligations under Article 1 to "ensure respect for the Convention in all circumstances" and thereby to ensure that Israel applies *de jure* the Fourth Geneva Convention in the OPTs, including the prohibitions on torture and ill treatment of protected persons, and the transfer of prisoners outside of the OPTs.

- To recognize their obligations under Article 146 to search for and prosecute those responsible for grave breaches of the Convention as defined in Article 147, in conformity with the universal jurisdiction over grave breaches, including torture and inhuman treatment, recognized by the Convention.

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COMMISSION ON HUMAN RIGHTS
Fifty-eighth session
Item 6 of the provisional agenda

RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND ALL FORMS OF DISCRIMINATION

Written statement* submitted by the Palestinian Centre for Human Rights (PCHR), a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[31 January 2002]

*This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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ENG

The Palestinian Centre for Human Rights (PCHR) and LAW, the Palestinian Society for the Protection of Human Rights and the Environment (LAW) express their grave concerns at Israel's continuing gross and systematic violations of international human rights and humanitarian law in the Occupied Palestinian Territories (OPTs).

As recognized in the NGO Forum Declaration and Programme of Action of the World Conference Against Racism, August 2001, PCHR and LAW believe that at the heart of the ongoing systematic violations of international human rights and humanitarian law by Israel in the OPTs are extreme forms of racial discrimination, including the crime of apartheid.

Racial discrimination as defined under the International Convention on the Elimination of All Forms of Racial Discrimination (CERD) is a broad term which includes discrimination not only on the grounds of race and colour, but also of descent or national or ethnic origin. The racial discrimination practiced against Palestinians, in the form of the crime of apartheid is not on the basis of colour, as was the case in South Africa, rather on the basis of national origin and descent.

The ongoing Nakba (the Catastrophe) perpetrated by Israel against Palestinians since 1948 is characterized by a new form of Apartheid, including elements of the crime of Apartheid as defined in the International Convention on the Suppression and Punishment of the Crime of Apartheid (Apartheid Convention), colonialism and other forms of extreme racism practiced by Israel in the OPTs. The components of the Nakba, which include expulsions, theft and destruction of land and property without compensation, unlawful killings, ill treatment, economic and social restrictions, and restrictions on freedom of movement, have been, and continue to be used collectively, as a form of ethnic cleansing, to effectively drive Palestinians from the land.

Recognized as an extreme form of racism in CERD and other international standards, the subjugation of a people to alien domination and exploitation, including as a colonial power, is a denial of the fundamental right to self-determination and other human rights in violation of international law, is contrary to the Charter of the United Nations and is an impediment to world peace and security. The crime of apartheid involves the racial segregation and various inhumane acts committed for the purpose of establishing and maintaining racial domination of one racial group over the other and systematically oppressing them. In the case of Israel, these various inhumane acts have included the perpetration of war crimes, use of ethnic cleansing methods and specific incidents or acts of genocide.

The continued forcible expulsion of Palestinian from their lands, homes and property has been most recently pursued through Israel's house demolition policy which in the Gaza Strip alone has left almost 500 homes completely destroyed and more than 2000 homes damaged since the beginning of the Intifada; through landlevelling which has destroyed more than 10,000 dunums1 of agricultural land since September 2000; and through regular military attacks using apache helicopters, F16 fighter jets, tanks, heavy and medium calibre machine guns in civilian residential areas; and through the strict closures imposed on the OPTs, severing access to water, health care, food, education, work, family. The continued dispossession of Palestinian lands through, in particular, house and land destruction, and confiscation, and violence furthers colonialist expansion and has enabled the development and expansion of settlements, the focus and root of racism and discrimination in the OPTs.

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1 dunum equals 1000sq.metres.

The expropriation of land belonging to a racial group or its members is defined as one of the various inhumane acts perpetrated in the crime of apartheid under the Apartheid Convention2. The closure policy imposed on the OPTs which has resulted in the economic and social suffocation, leaving more than 80% of the population of the Gaza Strip living on less than US$2 per day3, constitutes the "deliberate creation of conditions preventing the full development of such a group…in particular by denying…basic human rights and freedoms, including the right to work, …the right to education, the right to leave and return to their country, …the right to freedom of movement and residency…"4.

Closures have also resulted in the further isolation of Palestinian towns and villages which, together with the expanding settlements and settlement infrastructure, have created separate Bantustan-style areas which are generally more densely populated, with inferior access to natural resources and are less fertile rural areas with little capacity for economic development or expansion for the increasing population than the land used for Jewish settlements. Segregation has also included the denial of access for Palestinians from the OPTs to Israel and for Jewish Israelis to Palestinian areas in the West Bank and Gaza Strip. Such segregation constitutes one of the inhumane acts perpetrated in the crime of apartheid as defined in article 2 (d).

The continued use of excessive and disproportionate force which has resulted in the deaths of at least 802 Palestinians5, and the continuing use of torture and ill treatment, including mental suffering, and arbitrary arrest and incommunicado detention, about which the UN Committee Against Torture recently expressed its grave concerns6, also constitute inhumane acts perpetrated under the crime of apartheid as defined in article 2 (a) (i and ii).

Another critical aspect of this dispossession has been the treatment of Palestinian refugees, particularly the discriminatory application of laws of return. As recognized by the UN Committee on Economic, Social and Cultural Rights7, the severe restrictions imposed by the government of Israel on Palestinians in the diaspora render it "almost impossible for Palestinians to return to the land of their birth". Alternatively, under the Law of Return, Jews from all over the world are virtually automatically granted residency rights and citizenship should they wish to immigrate to Israel.

Discrimination against Palestinians with regards access to land is clear, including in the example of East Jerusalem. The Committee of Economic, Social and Cultural Rights also noted that directives from the Israeli Ministry of Interior ensure that it is extremely difficult for Palestinians residing in East Jerusalem, including those who were born in the city, to maintain their residency rights and related rights to services. The qualification for residency that East Jerusalem was "the centre of life" for the previous seven years and the retroactivity of the application of this qualification ensured the continued denial of the right to family life for Palestinian families; children, parents and even spouses are forced to live separately as a result of the residency law. Such qualifications for residency are also applied in a discriminatory manner with the aim of creating and maintaining an almost exclusively Jewish population to

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2 Article 2 (d).
3 For more detailed information, please see PCHRs intervention on Economic, Social and Cultural Rights.
4 Article 2 (c).
5 Figures as of 18 January 2002.
6 Conclusions and Recommendations of the Committee Against Torture: Israel. 23/11/2001. CAT/C/XXVII/Concl.5.
7 Concluding Observations of the Committee on Economic, Social and Cultural Rights: Israel. 04/12/98. E/C.12/1/Add.27..

Jerusalem. The Committee also expressed its concerns at the "excessive emphasis upon the State as a 'Jewish State'", which they stated "encourages discrimination"8.

The settlement policy pursued by Israel in the OPTs for several decades is a clear example and manifestation of the discriminatory forms of colonialism and apartheid used against Palestinians in the OPTs. Though the Palestinian Authority is theoretically in control of areas of the OPTs designated as Areas A under the Oslo Accords, the Israeli military maintains direct control of 82% of the OPTs. Their total de facto control of the OPTs, which is clear in the powers retained by the Israeli military under the various interim agreements (including overall security, foreign policy, border controls, economic controls, military justice etc), is illustrated by the current closure policy which has destroyed the economy; restricted social development and movement, and prevented access to medical care, aid, work and education; restricted the functioning of the Palestinian Authority security services, ministries and other institutions. The reason given for this continued control is settlements and the need to maintain the security of settlements.

Settlements and the settlement policy is the cornerstone of the Israeli Apartheid regime in the OPTs, complete with separate roads systems, legal systems and discriminatory allocation of land and natural resources. This settlement policy has been pursued in violation of Article 49 of the Geneva Convention Relative to the Protection of Civilian Persons in Time of War of August 12, 1949 (Fourth Geneva Convention), which has been repeatedly reaffirmed applicable to the OPTs by the UN General Assembly and by its High Contracting Parties (except Israel), is a grave breach of the Convention under article 147 and is a war crime under Protocol 1 to the Fourth Geneva Convention and the Rome Statute of the International Criminal Court. As described above, elements of the settlement policy also constitute various inhumane acts perpetrated under the crime of apartheid as defined in the Apartheid Convention9.

Approximately 400,000 Jewish settlers live in 308 settlements in the OPTs, built on land illegally occupied and expropriated by Israel from Palestinians10. In the Gaza Strip, 1.3 million Palestinians subsist on 58% of the land while the remaining area is occupied by less than 6000 Jewish settlers and military personnel. The average settler in the Gaza Strip has access to 699 times as much land as an average Palestinian refugee camp resident11. The discriminatory allocation of access to natural resources has included water consumption (in the Gaza Strip Jewish settlers per capita water consumption is approximately 1000 cubic metres whereas Palestinians have access to 172 cubic metres per capita12), including the cost of water (settlers pay one quarter of the price paid by Palestinians in the Gaza Strip13) and access to agricultural areas (the largest settlement block in the Gaza Strip, Gush Qatif, is located along the sea shore and includes the most fertile areas of the Strip). The settlements are also served by a separate modern road system whilst Palestinians are forced to use poorer roads and often

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8 Concluding Observations of the Committee on Economic, Social and Cultural Rights: Israel. 04/12/98. E/C.12/1/Add.27. Para. 10.

9 Article 2 (d).

10 Geographic Information Systems, Applied Research Institute, Jerusalem.

11 Sara Roy, *The Gaza Strip: The Political Economy of De-Development*, 1995, p.178.

12 Ibrahim Mater, *Jewish Settlements, Palestinian Rights and Peace*, Information Paper Number 4, Centre for Policy Analysis on Palestine, January 1996, p.12. The discriminatory allocation of water and other natural resources was noted with grave concern by the UN Committee on Economic, Social and Cultural Rights in their Concluding Observations to Israel's initial report to the Committee (E/C.12/1/Add.27, para 24).

13 Jeffrey Dillman, *Water Rights in the Occupied Territories*, Journal of Palestine Studies 19, Autumn 1989, p.55.

dirt tracks. As recognized by the Committee on Economic, Social and Cultural Rights, "bypass roads" for settlement use and built on confiscated Palestinian land disrupt the contiguity of Palestinian areas, further isolating Palestinian communities and facilitating the expansion of settlements14.

In pursuing settlement expansion, the Israeli government provides generous economic subsidies and other benefits to settlers and many are provided with military training, arms and are guarded by the military. Settlers are subject to the laws of the State of Israel, and any settler who violates those laws, including in the OPTs, are subject to normal judicial proceedings inside Israel. Palestinians in the OPTs are subject to the Israeli military court system which consistently and routinely violates international standards on the right to a fair trial. Additionally, investigations of crimes perpetrated by Israelis in the OPTs, notably by settlers, are rarely conducted impartially and where prosecutions result, sentences are generally lenient, even for violent crime15.

As the Committee on Economic, Social and Cultural Rights have noted, the closure policy is applied only to Palestinians. Jewish settlers residing in the OPTs are not subject to any such restrictions. Similarly, the house demolitions, including those carried out in the absence of planning permission, are only carried out on Palestinian homes.

PCHR and LAW conclude that the State of Israel continues to practice a new form of Apartheid, including colonization and belligerent occupation in the OPTs and that the Palestinians in the OPTs suffer discriminatory treatment by the Israeli authorities in all areas of life in violation of international standards on equality, including the CERD, the International Convention on the Suppression and Punishment of the Crime of Apartheid, the Declaration on the Granting of Independence to Colonial Countries and Peoples16, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights. PCHR and LAW assert that these practices and policies, in particular, the complete economic and social suffocation of the OPTs which includes denial of access to medical care, food, water, families, work, the demolition of Palestinian homes and properties (the UN Committee Against Torture found the closure and house demolition policies may constitute cruel, inhuman or degrading treatment in contravention of article 16 of the Convention Against Torture17) and the continuing military bombardment of civilian areas are part of the continuing Nakba perpetrated by Israel against the Palestinian people. PCHR and LAW further assert that Israel's aim in pursuing these systematic policies is to make life impossible for Palestinians, thereby forcing them to leave their land and thereby facilitating colonial expansion of Israel and furthering the exclusive nature of Israel as a Jewish state. PCHR and LAW therefore call upon

the Government of Israel

- To immediately cease all discriminatory practices and implement the provisions of CERD

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14 Concluding Observations of the Committee on Economic, Social and Cultural Rights: Israel. E/C.12/1/Add.27 para 24.

15 On 21 January 2001, a Jewish settler was sentenced to six months community service and a 70,000 NIS fine for the beating to death of a Palestinian child. On the same day, an Israeli Court sentenced 17 year-old Palestinian girl, to six and a half years' imprisonment for attempting to stab a Jewish settler. For more information, please refer to LAWs Press Release, "*Two Israeli verdicts unveil discrimination against Palestinians*", 23 January, 2001, available on www.lawsociety.org.

16 Adopted by General Assembly Resolution 1514 (XV) of 14 December 1960.

17 Conclusions and Recommendations of the Committee Against Torture: Israel. 23/11/2001. CAT/C/XXVII/Concl.5. Para 6 (I and J).

and other international human rights treaties to which they are a State Party.

- To immediately cease all apartheid policies used, in particular those which are in contravention of the International Convention on the Suppression and Punishment of the Crime of Apartheid, and Protocol 1 to the Geneva Conventions.

- To immediately halt settlement expansion in the OPTs and make arrangements for their quick and effective dismantlement.

- To end the ongoing belligerent occupation of the Gaza Strip and the West Bank, including Jerusalem, which constitutes colonial expansion and a new form of Apartheid.

the United Nations Human Rights Commission and General Assembly

- To reestablish the UN Special Committee Against Apartheid to scrutinize the Apartheid system pursued by Israel, verify information regarding the nature of this system and propose measures and action to be taken to eradicate this system and all related discriminatory practices.

- To exclude Israel from all UN-sponsored conferences and organizations.

the International Community

- To immediately provide an independent international protection presence with powers to intervene to prevent violations and protect Palestinian civilians in the OPTs.

- To recognize that the belligerent occupation of the Gaza Strip and the West Bank, including Jerusalem is colonialism; and that the occupation and various other methods and inhumane acts amount to a form of apartheid, and that the human rights violations which continue to be perpetrated against Palestinians by Israel are rooted in racism.

- To endorse and implement all the recommendations included in the Programme of Action of the NGO Forum of the World Conference Against Racism, Racial Discrimination, Xenophobia and all Related Forms of Intolerance.

- To take measures against the State of Israel similar to those imposed on Apartheid South Africa with the aim of ending the racist practices pursued against Palestinians. These measures may include, but are not limited to, the imposition of comprehensive arms, oil, economic and trade sanctions and embargoes (with the exception of medical food and other humanitarian supplies), downgrading or suspension of diplomatic relations including sports, education, academic, cultural and other initiatives.

UNITED NATIONS

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20 February 2002

ENGLISH AND SPANISH ONLY

COMMISSION ON HUMAN RIGHTS
Fifty-eighth session
Item 11 (b) of the provisional agenda

CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF: DISAPPEARANCES AND SUMMARY EXECUTIONS

Written statement* submitted by the Palestinian Centre for Human Rights (PCHR), a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[31 January 2002]

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*This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE. * 2 0 0 2 0 1 1 0 3 5 *

ENG

The Palestinian Centre for Human Rights (PCHR) and LAW, the Palestinian Society for the Protection of Human Rights and the Environment (LAW) express their grave concern at the increasing prevalence of extrajudicial, summary, and arbitrary executions of Palestinians by Israeli occupation forces and settlers in the Occupied Palestinian Territories (OPTs), including Jerusalem.

802 Palestinians were killed by Israeli occupation forces or settlers in the OPTs, of whom 193 were children, aged under 18, between 28 September 2000 and 18 January 2002.1 These killings are part of a dramatic and unprecedented deterioration in the human rights and humanitarian situation in the OPTs. Nearly all of the deaths during this period were the result of excessive and/or indiscriminate use of force by the Israeli army, or willful killings, including assassinations. These ongoing killings are a systematic violation of Israel's obligations under the Geneva Convention Relative to the Protection of Civilian Persons in Time of War of August 12, 1949 (the Fourth Geneva Convention) and the International Covenant for Civil and Political Rights (ICCPR), and other international standards. These killings generally occur in the following contexts:

Assassinations

Israeli occupation forces have killed at least 71 Palestinians as part of its policy of assassinating alleged Palestinian militants and political leaders. This policy has variously been called "targeted killing," "active self-defense," and other euphemisms by the Israeli government. Of those killed 53 were targeted individuals; 18 bystanders, including 4 children were also killed. Assassinations are carried out without recourse to even the most basic judicial process. No attempt is made to arrest these individuals, even when their arrest would have been possible. The Israeli government has not presented evidence to substantiate its allegations in any of these cases, either before or after such killings. Assassinations are carried out in circumstances that demonstrate complete disregard for human life (often through use of explosive booby traps and Apache helicopter gunships firing anti-tank missiles into civilian residential areas), as the high number of "unintended" casualties demonstrates. These killings are a gross and systematic violation of the right to life, the right to a fair trial and other international human rights standards. As willful killings they also constitute grave breaches of the Fourth Geneva Convention.

Demonstrations and "clashes"

Palestinians demonstrating against occupying forces, whether peacefully or while throwing stones, are often met by excessive and lethal force by Israeli soldiers. At least 470 Palestinians have been killed during demonstrations, the majority of them unarmed civilians. Israeli occupation forces are often positioned in well-protected fortifications, several hundred meters from demonstrators. The often immediate resort to the use of live ammunition, sometimes by highly-trained snipers, in the absence of any threat to life constitutes excessive use of force.

Shelling, shooting, and aerial bombardment

Israeli occupation forces regularly bombard Palestinian residential areas, using weaponry intended for full combat situations, including heavy-calibre machine guns, tanks, armoured vehicles, Apache helicopter gunships, and F-16 fighter jets. Israeli forces have not used

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1 This figure excludes Palestinian militants killed while carrying out attacks against Israeli occupation forces but includes individuals killed while resisting Israeli incursions into PNA-controlled areas.

combat aircraft in the OPTs since the 1967 war. At least 274 Palestinians have been killed in these circumstances. In some instances the bombardment is purportedly undertaken in response to armed attacks by Palestinians against Israeli occupying forces and settlements; at other times, air attacks have targeted Palestinian National Authority (PNA) office buildings in residential areas as a means of political pressure; at other times, no reason for such attacks can be discerned. In all instances these attacks are excessive, disproportionate, and indiscriminate.

Incursions

Israeli occupation forces have invaded areas under the jurisdiction of the PNA with increasing regularity throughout the al-Aqsa Intifada. A number of Palestinians have been killed during such attacks. As the Israeli military can and does affect all aspects of life in the OPTs – including PNA areas – it retains the legal responsibilities of an Occupying Power. This position has been repeatedly confirmed by the ICRC and the High Contracting Parties to the Fourth Geneva Convention. These operations often combine infantry units with tanks, armoured vehicles, bulldozers, and air support to invade refugee camps and villages, often while opening fire indiscriminately. Many of the Palestinians killed during incursions died as a result of indiscriminate Israeli fire. Others, in particular PNA policemen (who are still considered civilians under the Fourth Geneva Convention), have been killed while resisting such attacks. Such killings are grave breaches of the Fourth Geneva Convention (article 147).

Other willful killings

In a number of cases, Palestinian civilians have been killed by Israeli soldiers in situations of "complete quiet," i.e. in the absence of demonstrations or when no attacks have been perpetrated by Palestinians against Israeli targets. Many of these incidents involve Palestinian civilians killed by Israeli soldiers while at or near Israeli military checkpoints, and Israeli snipers killing Palestinian civilians often with a single shot; to the head or upper body; fired from a short distance; in daylight; in residential areas. Other categories of willful killings include killings of Palestinians by Israeli settlers (acting either alone or in paramilitary groups), whose presence in the OPTs is a violation of article 49 of the Fourth Geneva Convention, and alleged executions of Palestinian militants already incapacitated by wounds sustained while attacking Israeli occupation forces.

PCHR and LAW note with great concern that in the hundreds of cases of Palestinian civilians killed by Israeli occupation forces and settlers, few, if any, have undergone a full and proper investigation. PCHR and LAW do not consider that any member of the Israeli military or any other Israeli responsible for unlawful willful killings has been subjected to adequate and appropriate judicial procedures and punishment in accordance with international standards2. Moreover, no compensation has been paid to the families of victims during the current Intifada. The office of the Attorney General stated for the first time, in response to a case submitted by PCHR to the High Court of Justice, that Israel considers the Hague Convention IV, 1907, to apply to the OPTs, thereby recognising the situation as a state of war, and that according to their interpretation of this Convention, including reference to "the necessities of war", Israel bears no legal responsibility for the results of military activity, which would

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2 On 16 January 2001, Ha'aretz reported that an IDF soldier had been indicted for negligently causing the death of Fatma Abu Jeish on 7 January 2001 in the first prosecution of an Israeli soldier since the Intifada began. The soldier was charged in December 2001 in the military tribunal of the Central Command. PCHR and LAW are concerned that this prosecution be conducted in accordance with international standards and that, if found responsible by the tribunal, the soldier by given an appropriate sentence.

include to investigate such killings or to provide any form of reparation3. The systematic failure to conduct full investigations, prosecute in accordance with international standards, including with respect to appropriate punishment, and provide reparation, including adequate compensation, is a gross violation of international law and creates a regime of complete impunity within the Israeli military, settler community, and security services for the unlawful killing of Palestinian civilians. PCHR and LAW therefore calls upon

The Government of Israel

- To immediately apply all provisions of the Fourth Geneva Convention in the OPTs, de jure and de facto, and to comply with UN resolutions demanding a full withdrawal from Palestinian territories occupied in 1967.

- To immediately end its policy of assassinating Palestinians.

- To immediately cease the use of heavy military equipment in Palestinian civilian residential areas, including heavy machine guns, mortars, tanks, helicopter gunships, and warplanes.

- To immediately amend and/or enforce open-fire regulations issued to Israeli occupation forces, including civil police in occupied east Jerusalem, to ensure that lethal force is used in accordance with international legal standards.

- To effectively and appropriately investigate, prosecute, and punish all military personnel, police, and settlers suspected of unlawfully killing, or ordering the killing of, Palestinians in accordance with international standards, as required in Article 146 of the Fourth Geneva Convention.

- To take appropriate steps to adequately compensate the families of Palestinians unlawfully killed by Israeli occupation forces and settlers.

- To accept the presence of an appropriate international protection mechanism for Palestinian civilians in the OPTs and to extend full cooperation to it.

The High Contracting Parties to the Fourth Geneva Convention

- To take immediate steps to ensure Israel's de jure and de facto implementation of the Fourth Geneva Convention in the OPTs and its recognition of the Palestinian right to self-determination, including the right to establish a viable and independent state on the territories occupied in 1967.

- To immediately deploy an independent international protection presence to protect Palestinian civilians and prevent further grave breaches and other violations of the Convention and other international human rights standards in the OPTs.

- To recognize and implement the obligations of the High Contracting Parties to the Fourth Geneva Convention under Article 146 to

    - enact legislation to provide effective penal sanctions for persons committing, or

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3 A letter dated 17 January 2001, from Yehuda Shipher, Senior Assistant, the Attorney General. Case Appeal no. 9252/2000, Salah Al-Saka.

ordering to be committed, grave breaches of the Convention.

- search for and bring to trial, in accordance with international standards, persons alleged to have committed, or have ordered to be committed, grave breaches of the Convention, in conformity with the universal jurisdiction over grave breaches recognized by the Convention.

- To establish a War Crimes Tribunal to prosecute those Israelis responsible for perpetrating war crimes in the OPTs.

- To immediately end all transfers of arms and military equipment to Israel, and to pressure other states to do so.

- To immediately implement all signed agreements and domestic legislation that are contingent upon Israel's compliance with international human rights standards, including through the suspension of the Euro-Israeli Association Agreement.

- To impose economic, diplomatic, oil, trade, and other sanctions individually or collectively, in a graduated and cumulative manner (with the exception of the provision of humanitarian goods and services).

- To restrict bilateral trade relations with Israel regarding the import of products made in Israeli settlements in the OPTs.

UNITED NATIONS

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COMMISSION ON HUMAN RIGHTS
Fifty-eighth session
Item 8 of the provisional agenda

QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE OCCUPIED ARAB TERRITORIES, INCLUDING PALESTINE

Joint written statement* submitted by the Palestinian Centre for Human Rights (PCHR) and the International Federation of Human Rights Leagues (FIDH), non-governmental organizations in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[6 February 2002]

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*This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE. * 2 0 0 2 0 1 1 0 3 8 *

ENG

The Palestinian Centre for Human Rights (PCHR), the International Federation of Human Rights Leagues (FIDH) and LAW, the Palestinian Society for the Protection of Human Rights and the Environment (LAW) express their grave concern at Israel's continuing gross and systematic violations of international human rights and humanitarian law in the Occupied Palestinian Territories (OPTs).

The Gaza Strip, the West Bank, including Jerusalem, have been under Israeli military occupation since 1967 and the de jure applicability of the Geneva Convention Relative to the Protection of Civilian Persons in Time of War of August 12, 1949 (Fourth Geneva Convention) to these territories has been recognized by all of the High Contracting Parties to the Convention, including through resolutions of the United Nations Security Council and General Assembly and by the International Committee of the Red Cross (ICRC). Israel alone has consistently refused to accept its applicability to the OPTs.

During the last thirty-four years of this occupation, Israel has consistently and repeatedly violated many of the provisions of the Convention. However, the last year has witnessed an unprecedented escalation in violence against Palestinian civilians. Grave breaches as defined in Article 147 of the Convention include willful killing, torture or inhuman treatment, willfully causing great suffering or serious injury, unlawful deportation or transfer or unlawful confinement of a protected person, willfully depriving a protected person of the rights to a fair and regular trial, extensive destruction and appropriation of property. Each of these grave breaches has been consistently perpetrated by Israel against Palestinian civilians in the OPTs in the last year. As grave breaches these violations constitute war crimes.

Willful Killing

Between 28 September 2000 and 18 January 2002, 802 Palestinians were killed by members of the Israeli occupying forces and settlers. The intention to cause death is clear, in particular, in Israel's political assassination policy, in which, as of 14 January 2002, at least 53 Palestinian activists and 18 bystanders, including 4 children, have been killed and many more injured. It is also clear in the regular and continuing use of excessive and disproportionate force against the civilian population in the OPTs, which has included the use of heavy armour tanks, live ammunition, high velocity bullets, medium and heavy calibre machine guns, Apache helicopter gunships, F16 fighter jets and other weaponry intended for use in full combat situations. This weaponry has been used against unarmed civilians in the absence of any demonstrations or confrontations, while inside their homes, schools, universities, hospitals, clinics, ambulances, churches, mosques and places of work1. Many areas of refugee camps, in particular Rafah and Khan Younis camps in the Gaza Strip, are unsafe both during the day and at night due to the prevalence of Israeli snipers who have shot and killed many Palestinians, including a number of children. The circumstances of these killings, including a disproportionate percentage of injuries to the head and upper body; from shots fired from short distances; in daylight, demonstrate an intention to kill. Other possible willful killings include deaths following the denial of access to medical care in cases where such denial would clearly result in death, including deaths at checkpoints and during raids on Palestinian villages.

Torture and Inhuman Treatment, and Unlawful Confinement

PCHR, FIDH and LAW remain concerned at the continuing prevalence of torture and other

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1 For further details regarding unlawful killings of Palestinians, please see PCHR and LAWs intervention to the Human Rights Commission on agenda Item 11 (b).

forms of ill treatment of Palestinian prisoners in detention. The Human Rights Commission has repeatedly stated that prolonged incommunicado detention, which continues to be used extensively by Israel against Palestinian detainees, can amount to cruel, inhuman or degrading treatment or punishment. Administrative detention, though not of itself ill treatment, may be conducted in a manner which gives rise to a violation of the prohibition on ill treatment. PCHR, FIDH and LAW have repeatedly expressed concerns that Israel continues to practice ill treatment of Palestinian detainees in its application of incommunicado and administrative detention. The detention of a Palestinian without charge or trial, without prompt notification and access to family members, without access to legal counsel and without sufficient evidence, is also unlawful confinement under article 147 of the Fourth Geneva Convention.

The UN Torture Committee (CAT) condemned in November 2001 Israel's failure to promulgate a legislative prohibition on torture as defined in the Convention Against Torture, the continued use of methods of interrogation which amount to torture or ill treatment, the continued prevalence of administrative detention conducted in violation of the Convention as well as the continued prevalence of prolonged periods of incommunicado detention. The CAT also expressed concerns regarding allegations of torture and ill treatment of Palestinian minors. It further condemned the failure to effectively investigate allegations of torture and ill treatment, and provide effective access to appropriate mechanisms of redress, including compensation for victims2.

Willfully Causing Great Suffering

The ICRC has noted that "great suffering" includes moral suffering3. The continued and regular use of excessive and disproportionate force against a civilian population, including aerial bombardment of civilian residential areas using Apache helicopter gunships and F16 fighter jets, has an increasingly negative impact on the mental health of the civilian population in these areas and is a form of state terrorism. The terrorization of Palestinian civilians is a policy which has been pursued by Israel over a number of decades through its various military attacks and threats against the civilian population. The escalation of this policy in the last year has left an increasing number of residents suffering from post-traumatic stress disorders. Clearly, children and women are particularly vulnerable to these traumas4. The closure policy imposed by the Israeli occupation forces, tightened since the beginning of the Intifada has involved partial or complete closure of the OPTs, including separation of villages and towns within the OPTs, for weeks and even months. Closures have left the Palestinian economy largely bankrupt, high levels of unemployment, and shortages of even basic foodstuffs and medical supplies. Palestinians have been denied or delayed access to work, schools, universities, families and friends, and to clinics and hospitals. As the CAT recognized5, closures and house demolitions (as detailed below) amount, in certain instances, to cruel,

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2 Conclusions and Recommendations of the Committee Against Torture: Israel. 23/11/2001. CAT/C/XXVII/Concl.5.

3 Pictet, Jean, *Commentary: IV Geneva Convention Relative to the Protection of Civilian Persons in Time of War*, International Committee of the Red Cross, 1994, p.599.

4 According to a study conducted by the Gaza Community Mental Health Project Research Centre in 2001, 54.6% of children living in Khan Younis and Rafah refugee camps in the Gaza Strip who were surveyed had begun to develop symptoms of Post Traumatic Stress Disorders. 13.3% of the children suffered from mental and behavioural problems such as sleep disorders, hyperactivity, aggression, speech disorders and lack of concentration. Of the women surveyed from the same areas, 24.6% were suffering clinical depression and 11.2% were found to be suffering from psychosis and symptoms of psychosis.

5 Conclusions and Recommendations of the Committee Against Torture: Israel. 23/11/2001. CAT/C/XXVII/Concl.5. Para 6 (1).

inhuman and degrading treatment or punishment. The social and economic pressures created by closures, house demolitions and military bombardment have clearly caused great suffering to Palestinians, deepening the mental trauma of a civilian population under a continuing belligerent military occupation.

Willfully Causing Serious Injury to Body and Health

The disproportionate and excessive use of force by Israel during this Intifada has left 17217 Palestinians injured, many with permanent disabilities6. These injuries have occurred in various circumstances, including aerial and ground military attacks, snipers, and demonstrations. As detailed above, the continuing physical and mental strains of these attacks has negatively impacted the health of many Palestinian civilians, a fact worsened by the impact of closures on available health care.

Unlawful Deportations and Transfer

Approximately 3000 Palestinians from the OPTs are currently being detained in jails inside Israel. The transfer of prisoners to detention facilities outside of the OPTs is a grave breach of the Convention and a violation of Articles 49 and 76. The transfer also effectively ensures these prisoners are denied access to legal counsel7, and family visits8.

The transfer of parts of the Occupying Powers own population into an Occupied Territory is also a grave breach of the Convention. Israel has aggressively followed a policy of settlement for several decades and there are currently approximately 400,000 Jewish settlers residing in 308 built up areas in the OPTs9. The presence of these settlers and the existence of settlements and settlement infrastructure in the OPTs is a grave breach of the Convention and a war crime.

Willfully Depriving a Protected Person of the Rights of Fair and Regular Trial

Palestinians in the OPTs are subject to Israeli military orders and those arrested are processed in the Israeli military court system, rather than the Israeli judicial system in Israel to which Israeli citizens arrested in the OPTs are subject. Many of the military orders violate international human rights standards, including the classification of a child as under the age of 16 (military order no. 132 in the West Bank), and the military courts regularly and routinely violate international standards on the right to a fair trial, including with respect to access to lawyers from the OPTs, rules of evidence, disproportionate sentencing, family access to trial.

Extensive Destruction and Appropriation of Property

As of January 20, 2002, the Israeli military has demolished 500 Palestinian homes in the Gaza Strip, and 116 in the West Bank, including East Jerusalem, since the beginning of the Intifada. At least 2000 more have sustained serious damage. These demolitions have left thousands homeless. Clearly the scale of these demolitions is sufficient to be classified as extensive. Article 147 qualifies this grave breach as destruction, "not justified by military necessity and

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6 Figures as of 20 January 2002.

7 Palestinian lawyers from the Gaza Strip have been routinely denied access to clients in detention in Israel since 1996.

8 The ICRC prisoners' families visitation programme has been regularly suspended, since the beginning of the Intifada, as a result of the increasing restrictions and conditions imposed by the Israeli authorities and the closure policy.

9 Geographic Information Systems, Applied Research Institute, Jerusalem.

carried out unlawfully and wantonly". Israel has often claimed that these demolitions were necessary for military or security purposes. In the West Bank, including East Jerusalem, houses have been demolished for "illegal" construction, although it is almost impossible for Palestinians to obtain planning permission from the Israeli authorities10. House demolitions have largely been carried out with the stated purpose of creating a "buffer zone" around borders and Israeli military posts and settlements. There is no military necessity for the vast majority of demolitions. In most instances such as the demolition of 59 homes in Rafah refugee camp on January 10, 2002, no clashes were reported in the areas affected for several days prior to the demolitions and the area was entirely civilian. Demolitions also generally occur, as in the incident in Rafah, following operations by Palestinian gun men against Israeli targets. Such reprisatory destruction is collective punishment in violation of Article 33 of the Convention, as recognised by UN Secretary General, Kofi Annan11. The CAT qualified the house demolition policy as amounting, "in certain instances to cruel, inhuman or degrading treatment or punishment" in violation of article 16 of the Convention Against Torture12. Destruction has not been limited to civilian homes; agricultural land, mosques, churches, hospitals, field clinics, water supplies (including wells and pipes) and commercial property have all been deliberately or wantonly destroyed or damaged by the Israeli military in the OPTs.

PCHR, FIDH and LAW welcomed the recent reconvening of the High Contracting Parties (HCPs) to the Convention on December 5, 2001, to discuss Israel's implementation of the Convention in the OPTs. However, the organizations wish to remind the HCPs that this meeting did not discharge their obligation under Article 1 to "respect and ensure respect of the Convention in all circumstances". The Article 1 obligation requires the HCPs to take immediate concrete measures to ensure Israel's respect of the Convention. The escalation in grave breaches and other violations of the Convention by Israel in the last year, serves only to highlight further the urgent need for international protection for Palestinian civilians in the OPTs.

PCHR, FIDH and LAW therefore call upon

The Government of Israel

- To recognize the de jure and de facto applicability of the Fourth Geneva Convention to the OPTs.

- To implement and respect the provisions of the Convention regarding the protection of Palestinian civilians in the OPTs.

- To implement the recommendations of the CAT and the Committee on Economic, Social and Cultural Rights.

The UN Human Rights Commission and General Assembly

- To condemn the systematic perpetration of grave breaches and other violations of the Fourth Geneva Convention by Israel in the OPTs, and the refusal to facilitate visits of UN Special Rapporteurs to the OPTs.

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10 For further detail on Israel's house demolition policy please refer to PCHR and LAW's intervention for the Human Rights Commission, agenda item 10.
11 In a statement made on 11 January 2002.
12 Conclusions and Recommendations of the Committee Against Torture: Israel. 23/11/2001. CAT/C/XXVII/Concl.5. Para 6 (J).

- To call upon the High Contracting Parties to the Convention to take concrete measures, in respect of their obligation, to ensure Israel's respect of the Convention.

- To recommend the immediate provision of independent international protection for Palestinian civilians and to prevent further grave breaches and other violations of the Convention and other international human rights standards in the OPTs.

- To reaffirm the illegality of Israel's continuing belligerent military occupation of the Gaza Strip and the West Bank, including Jerusalem.

- To recommend and facilitate visits and reporting of previously nominated UN Special Rapporteurs to the OPTs and visits of the Special Rapporteurs on Food and Water, on Impunity and the Special Representative on the Rights of the Child in Situations of Armed Conflict.

The High Contracting Parties

- To take immediate steps to ensure Israel's implementation and respect for the provisions of the Convention in the OPTs.

- To immediately deploy independent international protection to protect Palestinian civilians and prevent further grave breaches and other violations of the Convention and other international human rights standards in the OPTs.

- To establish a war crimes tribunal to bring to trial those responsible for the perpetration of grave breaches of the Convention and other war crimes in the OPTs.

- To recognize and implement their obligations under Article 146 to

    - enact legislation to provide effective penal sanctions for persons committing, or ordering to be committed, grave breaches of the Convention.

    - search for and bring to trial, in accordance with international standards, persons alleged to have committed, or have ordered to be committed, grave breaches of the Convention, regardless of their nationality, in conformity with the universal jurisdiction over grave breaches recognized by the Convention.

- To immediately end all transfers of arms and military equipment to Israel, and to pressure other states to do so.

- To immediately implement all signed agreements and domestic legislation that are contingent upon Israel's compliance with international human rights standards, including through the suspension of the Euro-Israeli Association Agreement.

- To implement individually and collectively, in a graduated and cumulative manner, sanctions, including economic and diplomatic, which would ensure Israel's respect of its obligations under the Convention.

- To restrict bilateral trade relations with Israel regarding the import of products made in Israeli settlements in the OPTs.

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20 February 2002

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COMMISSION ON HUMAN RIGHTS
Fifty-eighth session
Item 10 of the provisional agenda

ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Written statement* submitted by the Palestinian Centre for Human Rights (PCHR), a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[6 February 2002]

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*This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE. * 0 0 2 0 2 1 1 0 4 1 *

ENG

The Palestinian Centre for Human Rights (PCHR) and LAW, the Palestinian Society for the Protection of Human Rights and the Environment (LAW), express their grave concerns at Israel's continuing gross and systematic violations of economic, social and cultural rights of Palestinians in the Occupied Palestinian Territories (OPTs).

Violations of economic, social and cultural rights in the OPTs have been perpetrated since the occupation began in 1967. However, the past 15 months have witnessed an unprecedented escalation of violations, including of economic, social and cultural rights. This intervention will focus on the closure and the house demolition policies and military bombardment of the OPTs pursued by the Israeli military, their impacts and the related violations of international human rights and humanitarian law with respect to economic, social and cultural rights. For further information regarding the impact of the settlement policy on economic, social and cultural rights, please refer to PCHR and LAWs intervention on agenda item 6 (Racism, Racial Discrimination, Xenophobia and all Forms of Discrimination).

Closure Policy

Closures have been imposed on the OPTs by the Israeli military in varying degrees since 1989. However, since the beginning of the Intifada, the restrictions on free movement of persons and goods have reached an unprecedented level, severing access to food, water, health care and supplies, education, work and family, as recognised by the UN Committee on Economic, Social and Cultural Rights (Committee on ESCR)1. Closures negatively impact all areas of daily life in the OPTs.

External closures have prevented all access to Israel for residents of the OPTs. Since Israel controls all borders with the Gaza Strip (including into Egypt) and the West Bank (into Jordan), closures have also prevented Palestinians from traveling abroad. In the Gaza Strip, as of 12 January 2002, all Palestinians are denied access to Erez Junction, the main route into Israel. During 2001, the Erez Junction was closed for 313 days to Palestinians and partially open for the remaining 52 days. Karni Crossing (exclusively used for commercial trade) was totally closed for 25 days and partially closed for 340 days. The Sofa Crossing, which is used for the movement of Palestinian labourers traveling to work inside Israel was completely closed for 313 days in 2001 and partially closed for 52. Internal closures have resulted in no movement between the Gaza Strip and the West Bank; the establishment of hundreds of military roadblocks have prevented Palestinians from traveling between Palestinian towns and villages within the OPTs.

General closures are generally tightened in response to attacks against Israeli targets inside Israel and in the OPTs. In such circumstances closures constitute collective punishment, in violation of Article 33 of the Geneva Convention Relative to the Protection of Civilian Persons in Time of War of August 12, 1949 (the Fourth Geneva Convention).

One of the more widespread effects of the closures has been the complete economic suffocation of the OPTs. The Gaza Strip, the poorest and most densely populated area of the OPTs, has been particularly affected. Closures have stopped all commercial activities between the West Bank and the Gaza Strip, and between the OPTs and Israel and other states. Commercial activities within the OPTs are also restricted. According to official Palestinian figures the total losses to the Palestinian economy, from the beginning of the Intifada until

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1 Concluding Observations of the Committee on Economic, Social and Cultural Rights: Israel. 31/08/2001. E/C.12/1/Add.69. Para 13.

December 2001, amount to $US 7 billion.

The Right to Work

The economic suffocation has included increasing levels of unemployment. In violation of the right to work, Palestinians from the OPTs employed in Israel and settlements (approximately 120, 000) have been denied access to their work as a result of the closure policy. In total, unemployment in the OPTs had risen to 55% by the end of 20012, with daily losses in wages of US$6.25 million3. In a survey conducted in July-August 2001, 50.5% Palestinians in the West Bank, and 81.5% Palestinians in the Gaza Strip were found to be living below the poverty line4. The economic consequences of the closures have been felt in every industry and sector.

The Right to Health Care

Closures have regularly resulted in the scarcity of medical supplies in the OPTs and the denial of access to regular and emergency health care. Additionally, medical workers have found themselves under attack by Israeli soldiers. Six Palestinian and one foreign medical worker have been killed in the course of their duties during the Intifada and at least 130 have been injured5. There have been 140 Israeli attacks against ambulances and more than 20 attacks against hospitals, clinics, or other medical facilities, all of which were clearly marked. Attacks on medical personnel and facilities are in direct violation of the Fourth Geneva Convention (articles 18, 20). At least 27 Palestinians have died at checkpoints in the OPTs when Israeli forces have denied medical workers access to sick or injured, or when Palestinians have been prevented from traveling to hospitals and clinics in neighbouring towns and villages. In addition, 17 women have been forced to give birth at checkpoints when Israeli soldiers have refused to allow them through to hospitals and clinics. Israeli forces have also prevented or delayed passage of medical supplies and aid convoys, including ICRC supply trucks in violation of Article 23 of the Fourth Geneva Convention. Palestinians have been prevented from traveling abroad to receive more advanced medical treatment due to closures.

Right to Education

Hundreds of Palestinian students, teachers and other staff have been denied access to their schools and universities, and education has been severely disrupted. Gazan students continue to be prevented from attending institutions in the West Bank. Many students have been killed or injured on their way to or from schools and universities, and schools and universities throughout the OPTs have come under military attack.

House Demolition

The Israeli authorities have pursued a policy of house demolition for several decades, with various aims, but again this policy has been escalated in the last 15 months. Home and property demolitions are currently carried out in several circumstances; failure to obtain planning permission; punishment for military attacks; all of which violate article 11 of the

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2 63-64% in the Gaza strip and 47-48% in the West Bank. Figures according to the Palestinian Ministry of Labour.
3 Figures obtained from the Palestinian Ministry of Labour.
4 The poverty level indicator used was $US 2 per day.
5 According to PCHRs documentation.

ICESCR as affirmed by the Committee on ESCR6. Demolitions of properties for which the owners have failed to obtain planning permission occur primarily in Jerusalem and surrounding areas. It is almost impossible for Palestinians to legally obtain planning permission from the Israeli authorities to build properties in these areas, particularly if that land maybe used for settlement expansion. Demolition in retaliation for military attacks, including claims that the houses are being used as cover for Palestinian gunmen firing at Israeli targets, occur more regularly, particularly in the Gaza Strip. 500 homes have been leveled since the beginning of the Intifada and more than 2000 have been severely damaged in the Gaza Strip alone, leaving at least 4000 Palestinians homeless. The deliberate destruction of civilian homes and property in retaliation for attacks on Israeli targets in the OPTs or in Israel is collective punishment and, as such, a violation of Article 33 of the Fourth Geneva Convention, as reaffirmed by UN Secretary General Kofi Annan on 11 January 2002. The extensive wanton destruction of civilian properties is also a grave breach of the Convention, as defined in article 147. Punitive house demolitions are also conducted in circumstances which may constitute cruel, inhuman or degrading treatment or punishment as found by the UN Committee Against Torture7; house demolitions are usually conducted at night by bulldozers, without prior warning, allowing residents no time to remove belongings and are usually accompanied by tanks and heavily armed soldiers.

In addition to the use of bulldozers, the Israeli military have destroyed or damaged hundreds of homes and other civilian property in indiscriminate shelling and shooting, including the use of F16 fighter jets and Apache helicopter gunships. More than 50,000 Palestinians in the OPTs have been displaced or affected by such attacks.

This destruction has not been limited to homes; more than 10,0008 dunums of agricultural land has been razed by the Israeli military during the Intifada, destroying crops, livestock, irrigation networks, wells, green houses, and storage facilities. At least 8% of the agricultural land in the Gaza Strip has been destroyed since the beginning of the Intifada. This is particular concerning in an area of 365 sq. kilometres, with a population of approximately 1.3 million, suffering, as a result of closures, increasingly restricted sources of food and other supplies.

The Israeli military continues to claim that the victims of demolitions and destruction have no right to compensation for their losses9. The denial of compensation for victims is a serious violation of international human rights law.

Effects on Health

One of the less documented effects of Israel's policies of closure, house demolition and the regular and repeated military bombardment of civilian areas is the effect on the health, particularly mental health of the civilian population. PCHR and LAW are particularly concerned that Palestinians in the OPTs, particularly those communities in Rafah and Khan Younis in the Gaza Strip, have been repeatedly and regularly subjected to military bombardment, including the use of F16s and Apache helicopters, strict closures, and house demolitions by military bulldozers carried out in circumstances amounting to cruel, inhuman

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6 Concluding Observations of the Committee on Economic, Social and Cultural Rights: Israel. 04/12/98. E/C.12/1/Add.27. Para 24.

7 *Conclusions and Recommendations of the Committee Against Torture: Israel. 23/11/2001. Para 6 (J).*

8 One dunum equals 1,000 square meters.

9 PCHR has submitted a number of complaints regarding house demolitions to the Israeli military and its legal advisor. Replies received have denied legal responsibility and therefore the right of the victims to claim compensation for their losses. For further detail please see PCHR and LAWs intervention to the Human Rights Commission on agenda item 11 (b).

and degrading treatment. Many in these communities have witnessed killings, injuries and other traumas to their friends, family members, neighbours, or have experienced personal losses. These systematic policies are being wantonly inflicted on a civilian population which has already been subjected to a belligerent military occupation for 35 years, whose lives have been characterized by poverty, hardship, and displacement. As a consequence, many in these communities are suffering from impaired mental and physical health, including post traumatic stress disorders, particularly depression. The intentional infliction of severe trauma on the civilian population is indicative of Israel's policy of state terrorism and may constitute "great suffering", including moral suffering, as a grave breach of the Fourth Geneva Convention (article 147) and a war crime.

PCHR and LAW assert that Israel applies the provisions of the Convention on Economic, Social and Cultural Rights in a discriminatory manner10, in contravention of article 2.2 as recognised by the Committee on ESCR11. PCHR and LAW reaffirm the Committees concerns that Israel continues to violate international standards on economic, social and cultural rights in the OPTs. PCHR and LAW therefore call upon

The Government of Israel

- To take steps to ensure its immediate de facto and de jure implementation of the provisions of the International Covenant on Economic, Social and Cultural Rights in the OPTs without discrimination.

- To immediately cease the closures and house demolitions in the OPTs.

- To fulfill its obligations under the Covenant to supply the Committee with regular and detailed information regarding its implementation of the Covenant in Israel and the OPTs.

- To facilitate missions of the UN Special Rapporteurs on Housing and others to Israel and the OPTs, and to fully cooperate with them.

The UN Human Rights Commission and UN General Assembly

- To take effective measures to ensure Israel complies with the provisions of the Covenant on Economic, Social and Cultural Rights, and other international human rights and humanitarian standards.

- To condemn Israel's continued closure of the OPTs, and its related consequences for the enjoyment of human rights in the OPTs.

- To condemn Israel's continuing policy of house and property demolition in the OPTs in contravention of the Fourth Geneva Convention, and other international human rights laws, in particular the Convention Against Torture and the ICESCR as found by both the Committee Against Torture and the Committee on Economic, Social and Cultural Rights.

The International Community

- *To immediately deploy independent international protection for Palestinian civilians in the*

10 For details regarding the discrimination practiced against Palestinians, please refer to PCHR and LAWs intervention to the Human Rights Commission agenda item 6.
11 Concluding Observations of the Committee on Economic, Social and Cultural Rights: Israel. 04/12/98. E/C.12/1/Add.27. Para 10.

OPTs and to prevent further violations of international human rights and humanitarian law in the OPTs.

- To immediately end all transfers of arms and military equipment to Israel, and to pressure other states to do so.

- To immediately implement all signed agreements and domestic legislation that are contingent upon Israel's compliance with international human rights standards, including the Euro-Israeli Association Agreement.

- To impose economic, oil, trade, military and other sanctions and embargoes (with the exception of the provision of medical aid, foodstuffs and other humanitarian goods).

- To restrict bilateral trade relations with Israel, especially regarding the import of products made in Israeli settlements in the OPT.

- To suspend, downgrade, or sever diplomatic ties with Israel.